

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

MORRIS MARSH v. STATE OF TENNESSEE

Appeal from the Criminal Court for Johnson County
No. 53632B Lynn W. Brown, Judge

No. E2009-01304-CCA-R3-HC - Filed March 24, 2010

The petitioner, Morris L. Marsh, appeals from the Johnson County Criminal Court's dismissal of his petition for writ of habeas corpus, and the State of Tennessee moves the court to summarily affirm the dismissal pursuant to Tennessee Court of Criminal Appeals Rule 20. Because the record supports the State's motion, the criminal court's order is affirmed.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed
Pursuant to Rule 20 Rules of the Court of Criminal Appeals

JAMES CURWOOD WITT, JR., J., delivered the opinion of the court, in which NORMA MCGEE OGLE and D. KELLY THOMAS, JR., JJ., joined.

Morris Marsh, appellant, pro se.

Robert E. Cooper, Attorney General & Reporter; and Deshea Dulany Faughn, Assistant Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

The petitioner claimed in his petition for a writ of habeas corpus that his Davidson County Criminal Court convictions of first degree felony murder were void because a pretrial amendment to the indictment changed two of the counts to charges of second degree murder. Neither the petitioner nor the remainder of the record before this court contains the original indictment, and this court is unable to review the effect of the amendment of the indictment. Moreover, the conviction judgments that were appended to the petition appear to be consistent with the amendment to the indictment and reflect that the jury returned four verdicts of first degree felony murder which, after merger, resulted in two convictions of that offense.

We discern nothing in the record as presented that belies the validity of these judgments, and for that reason the petition demonstrates no entitlement to the writ of habeas corpus. *See State ex rel. Newsom v. Henderson*, 424 S.W.2d 186, 189 (Tenn. 1968). Accordingly, the order of the criminal court is affirmed pursuant to Rule 20.

JAMES CURWOOD WITT, JR., JUDGE